

PURCHASE ORDER CONDITIONS

Supply of Services



1 INTERPRETATION

The following terms apply to this Purchase Order:

- (a) Contractor means the entity providing the Services;
- (b) Hourly Rates means the rate structure, if specified, in Description & Part Number column or the Unit Price column of this Purchase Order;
- (c) MMO means Murrin Murrin Operations Pty Ltd (ABN 43 076 717 505) of Level 4, 30 The Esplanade, Perth in the State of Western Australia acting as the agent for Murrin Murrin Holdings Pty Ltd ACN 073 405 562 and Glenmurrin Pty Ltd ACN 076 684 396 in respect of their participating interests in the Murrin Murrin Nickel Cobalt Joint Venture;
- (d) Price means the price in the Total Price column detailed in the Purchase Order form to which these Purchase Order Conditions are attached;
- (e) Purchase Order means the agreement between MMO and the Contractor that consists of these Purchase Order Conditions; the Purchase Order form to which these Purchase Order Conditions are attached; MMO's Health, Safety & Environment Contractor's Requirements; and any other documents specified in the Purchase Order form;
- (f) Services means the services or a combination of goods and services described in the Description & Part Number column of the Purchase Order form to which these Purchase Order Conditions are attached;
- (g) Site means the Murrin Murrin Nickel Cobalt Plant;
- (h) Term means the period from the Commencement Date to the Date/s for Completion; and
- (i) The terms Commencement Date; and Date for Completion have the meaning ascribed to them in the Purchase Order form to which these Purchase Order Conditions are attached.

2 CARRYING OUT THE SERVICES

The Contractor must:

- (a) commence the Services by the Commencement Date and:
 - (i) where the Purchase Order specifies a Date for Completion, bring the Services to Completion by the Date for Completion; or
 - (ii) where the Purchase Order specifies a Term, perform the Services for the Term;
- (b) properly and diligently execute the Services with the degree of skill, care and competence expected of a skilled tradesman, technical or professional person experienced in performing the same or similar work;
- (c) perform the Services in accordance with good engineering practice, to MMO's reasonable satisfaction and in accordance with the Purchase Order;
- (d) carry out all directions from MMO; and
- (e) comply with the Health, Safety and Environment Contractor's Requirements.

3 PAYMENT BY MMO

- 3.1 Where the Purchase Order specifies a Price, the Price will be the Contractor's total entitlement for the provision of the Services. If the Purchase Order does not specify a Price (or only specifies an estimated Price), then the Contractor will be paid in accordance with the Hourly Rates set out in the Purchase Order.

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- 3.2** The Contractor must provide to MMO a payment claim (in the form of a tax invoice) for payment of the Services in a form acceptable to MMO at the following times:
- (a) where the Purchase Order specifies a Date for Completion, within 7 days of the Date of Completion (as defined in clause 11(b)); or
 - (b) where the Purchase Order specifies a Term, monthly (unless otherwise agreed between MMO and the Contractor).
- 3.3** All invoices provided by the Contractor to MMO must be marked to the attention of MMO accounts payable and sent to PO Box Z5523 St George's Tce Perth WA 6831 or emailed to accountspayable@minara.com.au.
- 3.4** Subject to any dispute in relation to the amount claimed, invoices will be paid within 10 days after the end of the month following the month in which the invoice is issued.
- 3.5** If MMO disputes any amount purportedly owed by it to the Contractor under the Purchase Order, MMO must nevertheless pay the amount (if any), which is not disputed, and notify the Contractor of the amount in dispute and the reasons for disputing the amount. The Contractor must provide a credit invoice for the amount in dispute.
- 3.6** Without limiting any other right or remedy MMO may have under the Purchase Order, any debt owing by the Contractor to MMO, or any claim which MMO may have against the Contractor in connection with the Purchase Order, may be deducted from moneys otherwise payable to the Contractor under the Purchase Order.
- 3.7** Where the Services are to be provided for a Term or for a Price, the Contractor shall not provide Services beyond the expiration of the Term and will not be entitled to payment exceeding the Price without obtaining MMO's prior written approval.

4 PLANS

If Services are to be provided at the Site, the Contractor shall, within 7 days of any request by MMO, provide to MMO for MMO's approval:

- (a) an environmental management plan;
- (b) a quality assurance plan; and
- (c) a health and safety plan,

which shall include the requirements set out in the Requirements for Plans, and such other plans as MMO may require from time to time.

5 VARIATIONS TO THE SERVICES

- 5.1** MMO may at any time vary the Services by giving notice in writing to the Contractor.
- 5.2** If MMO varies the Services, then the parties will endeavour to agree on any adjustment to the Price or other fee payable under the Purchase Order. If both parties do not agree to the cost of the variation within 7 days then clause 5.3 will apply.
- 5.3** If the parties cannot agree on the cost of the variation, MMO will make a valuation. The valuation will be based on the Hourly Rates, or if no Hourly Rates are specified, on reasonable rates.

6 COMPLIANCE WITH STATUTORY REQUIREMENTS

- 6.1** The Contractor must comply, at its own cost, with all applicable legislation, the Contractors' Requirements Manual and statutory requirements of any authority having jurisdiction over the Services. Where applicable, the Services will comply with the Building Code of Australia.

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- 6.2 The Contractor warrants that it has the approval of any relevant authority or professional body to carry out the Services (including without limitation any required licence or accreditation).
- 6.3 The Contractor will be responsible for all occupational safety and health and industrial relations issues.
- 6.4 Where the Services are carried out on the Site, the Contractor shall comply with all directions of the registered manager under the Mines Safety & Inspection Act 1994.

7 CONFIDENTIAL INFORMATION

The Contractor must not, at any time, without the consent of MMO, divulge to any person any information concerning the Purchase Order or the operations, dealings, transactions, contracts or commercial affairs of MMO.

8 STANDARD OF SERVICES

- 8.1 If at any time the Services, or any materials or goods used by the Contractor in connection with the Services, are not in accordance with the Purchase Order, MMO may direct the Contractor to replace, correct, remove or vary it at no cost to MMO. If the Contractor fails to comply with the direction to MMO's satisfaction, MMO may engage others to carry out the work, the cost of which shall be a debt due from the Contractor to MMO.
- 8.2 Alternatively, MMO may accept the work, materials or goods and MMO's estimate of the amount of any loss suffered by MMO shall be a debt due from the Contractor to MMO.

9 DESIGN

The Contractor must ensure that any design, program or plan prepared by it will:

- (a) be fit for its intended purpose;
- (b) be efficient and economical to use;
- (c) meet any statutory requirements and the requirements of the Purchase Order; and
- (d) not infringe any industrial or intellectual property rights.

10 WARRANTIES

- 10.1 The Contractor must obtain all product warranties and other warranties required by the Purchase Order. The warranties must be obtained in MMO's name, validly assigned to MMO or, if this is not possible, held by the Contractor on behalf of MMO and enforced by the Contractor to ensure that MMO obtains the benefit of warranties.
- 10.2 Should the Contractor supply goods as part of this Purchase Order the Contractor warrants to MMO in respect of the goods that:
 - (a) If the goods are found to be defective for any reason within the warranty period specified in the Purchase Order (or if no such period is specified the warranty period will be two years from the Date of Completion) (the "Warranty Period"), MMO will be entitled to return the defective goods to the Contractor and at the Contractor's expense, the Contractor will (at MMO's option) either replace or repair the goods or reimburse to MMO the cost of replacing or repairing the goods.
 - (b) the Contractor is aware of the purpose for which MMO is acquiring the goods, and that the goods will be, and will remain, for the Warranty Period, suitable and fit for that purpose, of good and merchantable quality and free from all defects or fault;

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- (c) the goods will conform throughout the Warranty Period in all respects with drawings, specifications, and samples provided by the Contractor to MMO and will comply with the functional and performance criteria set out in the Purchase Order and relevant Australian standards and codes;
- (d) MMO will have the full benefit of any manufacturer's warranties that apply to the goods or any part of the goods (or any of their component parts);
- (e) the goods do not infringe any patent, trademark, copyright or other intellectual property rights or interests of any third party; and
- (f) all relevant consumer safety standards relating to the goods have been complied with.

10.3 The above warranties apply and continue to apply regardless of whether the goods comply or do not comply (as the case may be) with the Purchase Order and even though MMO may examine or may have had the opportunity to inspect or test the goods or part of the goods and irrespective of whether or not the examination reveals or ought to have revealed the existence of defects.

10.4 The above provisions do not in any way restrict or diminish any other rights or remedies that MMO may have in respect of the goods and are in addition to any other warranties or conditions whether express or implied or whether granted by statute or otherwise.

11 COMPLETION

Where this Purchase Order specifies a Date for Completion:

- (a) "Completion" shall mean:
 - (i) the Services are, in MMO's opinion, completed without defects, in accordance with this Purchase Order;
 - (ii) there is no legal or other impediment to prevent the Services being used for their intended purpose;
 - (iii) the Contractor has provided to MMO all documents and other information required to be provided by the Purchase Order or reasonably requested by MMO;
- (b) when the Contractor considers the Services have reached Completion, it shall notify MMO. MMO will assess whether Completion has been achieved and either:
 - (i) certify the date on which Completion was achieved ("Date of Completion"); or
 - (ii) advise the Contractor of what further work is required to achieve Completion; and
- (c) if the Contractor is delayed in reaching Completion by the Date for Completion by any act of MMO or MMO's agents, the Contractor shall notify MMO in writing of such delay within 7 days of the delay commencing. . Subject to the Contractor providing notice within such period, MMO will make an assessment of the extent (if any) to which the Date for Completion has been affected and make a reasonable adjustment to the Date for Completion.

12 INSURANCE

12.1 The Contractor must effect from the Commencement Date and maintain throughout the Term or until Completion (as applicable) with an insurer, and on terms acceptable to MMO:

- (a) workers compensation and employer's liability insurance in accordance with applicable awards and legislation;
- (b) insurance legally required governing the use of registered motor vehicles;
- (c) public liability insurance for an amount not less than \$10,000,000;
- (d) insurance covering the Contractor's plant and equipment for an amount not less than market value;

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- (e) professional indemnity insurance for an amount not less than \$5,000,000 where the Contractor is required to carry out design or provide advice, and/or management or construction management services; and
- (f) where the Services involve construction work, insurance covering the whole of the Services for an amount not less than the Price, or if there is no Price, the anticipated total cost of the Services.

12.2 The insurances referred to in clause 12.1 will be extended to cover the interests of MMO.

12.3 The Contractor must provide MMO with evidence of the terms and currency of insurances effected by the Contractor when requested by MMO.

12.4 As soon as practicable after the Contractor becomes aware of any event which may give rise to an insurance claim against, or which might affect rights under, the Contractor's insurance policies the Contractor must:

- (a) notify MMO in writing of the claim; and
- (b) give MMO any further information regarding the claim as MMO may require.

13 INTELLECTUAL PROPERTY

The Contractor grants to MMO an irrevocable royalty - free licence to use, and amend, any drawings, documents and technical information in any form, provided or created by the Contractor in connection with this Contract.

14 TERMINATION

14.1 If the Contractor breaches the Purchase Order and fails to remedy such breach after receiving 7 days written notice from MMO to do so MMO may terminate the Purchase Order.

14.2 MMO may terminate this Purchase Order without reason at any time by giving 7 days notice in writing to the Contractor (and MMO will only be liable to the Contractor for the payment of any amounts payable under this Purchase Order to the date of termination). The Contractor will not be entitled to any other costs, expenses, loss or damage, including loss of profit.

15 CIVIL LIABILITY ACT

Part 1F of the Civil Liability Act 2002 (WA) is hereby excluded from application to this Purchase Order.

16 INDEMNITY

The Contractor will be liable for and must indemnify and keep indemnified MMO against all actions, claims, damages, costs, loss or liability arising directly or indirectly out of or in connection with any breach, performance or non-performance by the Contractor of the terms of this Purchase Order.

17 DEFECTS LIABILITY PERIOD

The Contractor must promptly upon receipt of an instruction from MMO rectify at its own cost any defect, error or omission in or to the Services for a period of 12 months after the Date of Completion.

18 SUBCONTRACTING

The Contractor will not subcontract any of the Services without MMO's prior written consent.